

Appl. No. 10/086,912
Response Under 37 CFR 1.116 dated June 14, 2004
Reply to Office Action of March 12, 2004

REMARKS

Applicants have amended claim 1 to better clarify the invention. Claims 1, 2, and 4-29 are pending, with claims 9-29 having been withdrawn.

For the reasons given below, Applicants submit that the amendments above and the remarks below place the claims in condition for allowance, and respectfully request entry of this paper.

Rejection Under § 103(a)

Claims 1-8 were rejected under 35 U.S.C. § 103(a) as being obvious over WO 99/67213 to Solvay (the '213 application). Applicants respectfully disagree.

The '213 application relates to a method of making an ester peroxy carboxylic acid composition, the composition including ester peroxy carboxylic acid and residual alcohol. These compositions, however employ a stabilizer which is an antioxidant or sequestrant (see the '213 application at page 6, lines 18-29, each of the Examples, and also claim 9). Page 7, lines 8-10, emphasize that particularly desirable solutions are those containing stabilizer. The stabilizer is required to provide stability, which the compositions of the '213 application otherwise lack.

As discussed in the Background of Applicants' application, existing compositions of ester peroxy carboxylic acids suffer from unacceptable decomposition of the ester peroxy carboxylic acid. This is what is taught in the '213 application, due to the need to use a stabilizer. The C₂ or higher alcohol, of the present invention, is effective for stabilizing the ester peroxy carboxylic acid. Claim 1 has been amended to better clarify this. Particularly, in the claimed compositions, the C₂ or higher alcohol effective to maintain at least about 30 % of antimicrobial activity of the composition for at least about 3 months. The present compositions do not require added stabilizer, other than the C₂ or higher alcohol.

The Office Action points out that the '213 application teaches that if residual alcohol remains in the solution, that up to 10 % wt of the solution can be this residual alcohol (either methanol or ethanol) (page 6, lines 1-5 of the '213 application). This is not a teaching that the solution must include alcohol, much less a teaching of about 0.5 wt-% to about 80 wt-% C₂ or higher alcohol. The '213 application does not recognize the benefits of having the about 0.5 wt-

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% to about 80 wt-% C₂ or higher alcohol in the composition, and thus, adds a stabilizer in an attempt to obtain a suitable product.

Still further, the '213 application equates and interchanges methanol and ethanol and indicates that both are suitable for the solutions of the '213 application. In contrast, the present application is clear that methanol, a C₁ alcohol, is undesired in the compositions of the present invention. In fact, methanol is clearly avoided.

At least for these reasons, Applicants contend that the '213 application neither teaches nor suggests the presently claimed invention. Accordingly, based on the foregoing differences, it is submitted that the reference cited in the prior art rejection neither teaches nor suggests the presently claimed compositions, and withdrawal of this rejection is respectfully requested.

Summary

In summary, Applicants submit that each of claims 1, 2, and 4-8 are in condition for allowance. The Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below, if the Examiner believes that doing so will expedite prosecution of this application.

Respectfully submitted,

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